

REMARKS

The Present Invention

The invention is drawn to a method of enhancing bone density or formation, an adenoviral vector, and a bone graft.

The Pending Claims

Upon entry of this amendment, claims 1-3, 11, 12, 17, 19, 21, 22, 25, 32, 33, 42-50, 52-56, 58-62, and 66-71 will be pending. Claims 1-3, 11, 12, 17, 44-50, 66, and 67 are directed to the method, claims 19, 21, 42, 43, 52-56, 68, and 69 are directed to the adenoviral vector, and claims 22, 25, 32, 33, 58, 59-62, 70, and 71 are directed to the bone graft.

Discussion of Claim Amendments

Claims 1, 19, 22, 44, 52, and 58 have been amended to delete the term “transforming growth factor β 1 (TGF- β 1).” Claim 1, as amended, corresponds to claims 11, 12, 66, and 67 written in independent form. Claim 19, as amended, corresponds to claims 42, 43, 68, and 69 written in independent form. Claim 22, as amended, corresponds to claims 32, 33, 70, and 71 written in independent form. Claim 44, as amended, corresponds to claims 46 and 47 written in independent form. Claim 52 corresponds to claims 54 and 55 written in independent form. Claim 58 corresponds to claims 60 and 61 written in independent form. Claims 9, 30, 40, and 63-65 have been cancelled. Accordingly, no new matter has been added by way of these amendments.

The Office Action

The Office Action maintains the rejection of claims 1, 3, 9, 17, 19, 21, 22, 25, 30, 40, 44, 45, 48-50, 52, 53, 56, 58, 59, and 62-65 under 35 U.S.C. § 103(a) as allegedly being obvious over the combined disclosures of U.S. Patent 6,398,816 (Breitbart et al.) (“the Breitbart patent”) and U.S. Patent 5,935,820 (Hu et al.) (“the Hu patent”). Claims 1-3, 9, 17, 19, 21, 22, 25, 30, 40, 44, 45, 48-50, 52, 53, 56, 58, 59, and 62-65 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the combined disclosures of U.S. Patent 6,525,030 (Eriksson) (“the Eriksson patent”), U.S. Patent 6,475,480 (Mehtali et al.) (“the Mehtali patent”), and the Hu patent. Claims 11, 12, 32, 33, 46, 47, 54, 55, 60, 61, and 66-71 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Reconsideration of the Section 103 rejections is hereby requested.

Discussion of Rejections Under 35 U.S.C. § 103

As discussed above, and not in acquiescence of the rejections, claims 1, 19, 22, 44, 52, and 58 have been amended such that they correspond to claims 11, 12, 32, 33, 42, 43, 46, 47, 54, 55, 60, 61, and/or 66-71 rewritten in independent form. The Breitbart patent, the Hu patent, the Eriksson patent, and the Mehtali patent, alone or in combination, do not disclose or suggest the subject matter of the pending claims, as amended. Indeed, the Office Action indicates that claims 11, 12, 32, 33, 46, 47, 54, 55, 60, 61, and 66-71 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Accordingly, the Section 103 rejections based on the cited references are rendered moot in view of the claim amendments.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,



Melissa E. Kolom, Reg. No. 51,860
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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